



STATE BOARD OF LAND COMMISSIONERS

Dirk Kempthorne, Governor and President of the Board

Pete T. Cenarrusa, Secretary of State

Alan G. Lance, Attorney General

J. D. Williams, State Controller

Marilyn Howard, Superintendent of Public Instruction

Stanley F. Hamilton, Secretary to the Board

Final Minutes Regular Land Board Meeting July 11, 2000 • 9:00 AM

The regular meeting of the Idaho State Board of Land Commissioners was held on Tuesday, July 11, 2000 in Boise, Idaho. The Honorable Butch Otter presided. The following members were present:

Honorable Secretary of State Pete T. Cenarrusa
Honorable Attorney General Alan G. Lance
Honorable State Controller J. D. Williams
Honorable Superintendent of Public Instruction Marilyn Howard

Secretary to the Board Stanley F. Hamilton

Governor Kempthorne was attending the National Governor's Conference in Washington, D.C. Acting Governor Otter acknowledged the presence of a quorum and the meeting began at 9:10 a.m.

Prior to presenting the Consent Agenda, Director Hamilton introduced Mr. Larry Fryberg to the board. Larry Fryberg is the Area Supervisor for the Department of Lands Pend Oreille area.

• **CONSENT AGENDA**

Director Hamilton provided background information on the Consent Agenda items.

A motion was made by Attorney General Lance to approve the Consent Agenda in its entirety. Secretary of State Cenarrusa seconded the motion. The motion carried on a vote of 5-0.

1. Official Transactions – approved

- A. Interest Rate Report – June 2000
- B. Bureau of Minerals Official Transactions – May 2000
- C. Bureau of Real Estate, Easement Section – May 2000
- D. Bureau of Real Estate, Land Sale Section – May 2000
- E. Timber Sale Official Transactions – May 25, 2000 through June 20, 2000

2. Timber Sales – Staffed by Ron Litz, Chief, Bureau of Forest Management – approved

- | | | |
|--------------|------------------------|--------------------------|
| A. CR-1-0315 | Lower Tarlac Sawlogs | 2,650 MBF |
| B. CR-4-0696 | Mica Mountain Poles | 1,275 MBF / 6,000 pieces |
| C. CR-5-0093 | South Fork Olive Creek | 5,025 MBF |

3. Application for Qualified Bidders List, Timber Sales – Staffed by Ron Litz, Chief, Bureau of Forest Management – approved

- A. K & C Logging, Post Office Box 824, Ashton, ID 83420-0824
- B. Fiedler Logging & Excavating, Post Office Box 390, Oldtown, ID 83822

4. Minutes – approved

A. Special Land Board Meeting – June 22, 2000

5. Authorization for Issuance of Deficiency Warrants to Pay Fire Suppression Costs in Fiscal Year 2001 – Winston Wiggins, Assistant Director, Forestry & Fire – approved

DEPARTMENT RECOMMENDATION: The department requests that the board authorize the department to issue deficiency warrants necessary to pay the fire suppression costs beyond the \$119,200 appropriation for fiscal year 2001.

DISCUSSION: None.

BOARD ACTION: Board approved.

• **REGULAR AGENDA**

6. Director's Report – Presented by Stanley F. Hamilton, Director, Department of Lands

Principal Fund Balances as of May 31, 2000:

✓ Public School	\$549,430,679
✓ Pooled	\$253,009,107
✓ Total	\$802,439,786

DISCUSSION: Secretary of State Cenarrusa asked Director Hamilton if grazing lease revenues are included in the endowment fund total. Director Hamilton responded that grazing lease revenues are distributed directly to the beneficiaries and are part of the \$14.5 million direct distribution. Secretary of State Cenarrusa asked if those revenues would be included in the passage of the new constitutional amendment program with the Investment Board reserve fund. Director Hamilton stated that the revenues become part of the earnings reserve account and will be distributed as the Land Board chooses.

Controller Williams commented that even after taking a loss on minerals (the gravel settlement) the total is still up \$2 million with a month remaining. He asked Director Hamilton for a quick summary. Director Hamilton stated some of the additional income stemmed from cottage site rentals. There was also a small increase in grazing fees. But the rest of the income stems from other leases that are starting to generate more revenue than the board has received in the past.

The Director's Report is provided monthly for the board's information.

BOARD ACTION: No action was taken.

7. Endowment Fund Investment Board (EFIB) Manager's Report – Presented by Charles G. Saums, Manager of Investments

The EFIB Manager's Report is provided monthly for the board's information. Mr. Saums introduced EFIB Portfolio Manager, Ms. Jennifer Otram-Dobler, to the board. Mr. Saums informed the board that Ms. Otram-Dobler would at times present the EFIB Manager's Report.

DISCUSSION: Mr. Saums distributed a handout and stated the handout was provided in response to Attorney General Lance's query regarding the EFIB's method of calculating distributions to beneficiaries. One factor used in the formula is the growth of the state population. The EFIB used

the state's growth plus inflation to fund the beneficiaries. The EFIB felt this formula would keep future generations on par with current generations.

BOARD ACTION: No action was taken.

8. Request by Idaho Forest Industries, Inc. for Relief from Stumpage Interest on Timber Sale Contract TS-1-3173, Lower Uleda – Presented by Winston Wiggins, Assistant Director, Forestry & Fire – approved

DEPARTMENT RECOMMENDATION: The department recommends that Idaho Forest Industries, Inc. be granted interest relief from September 1, 1999 until such time that the bridges are replaced and volume removed from Units 1-4.

DISCUSSION: Acting Governor Otter asked how much relief this action would entail. Assistant Director Wiggins stated his best estimate is about \$30,000. That figure is calculated using approximately a year's worth of interest on an estimate of the remaining volume. The figure can not be calculated precisely because the volume itself is an estimate.

BOARD ACTION: A motion was made by Attorney General Lance to accept the department's recommendation. Controller Williams seconded the motion. The motion carried on a vote of 5-0.

9. Appeal of Grazing Lease G-8900, Ingram – Presented by Tracy Behrens, Range Management Specialist – approved

DEPARTMENT RECOMMENDATION: The department recommends that the board offer a grazing lease to IWP based on the same conditions presented at the May board meeting. The department recommended that the board accept the high bid of \$2000 from IWP for the 640 acres of endowment land in cancelled grazing lease G-8900. IWP should be required to continue with the existing cooperative grazing management strategy that allows the state land to be grazed two of every three years using a rest rotation grazing management strategy. As is standard in all grazing leases, construction of fences or other improvements will not be allowed without prior approval of the department.

DISCUSSION: Attorney General Lance asked what had changed since the last meeting. Mr. Behrens stated since the last meeting IDL has received a written statement from IWP indicating that at this time IWP would like to fence the riparian area as soon as they are issued a lease. Prior to that it was IDL's understanding that IWP would evaluate the situation for a few years to determine whether fencing was the best alternative.

Superintendent Howard commented about a letter from IDL to Mr. Ingram. The letter from IDL advised Mr. Ingram that because the lease was not yet awarded Mr. Ingram needed to skirt the state land this year. Superintendent Howard asked Mr. Ingram if he was able to move his cattle through the state land without endangering the riparian areas. Mr. Ingram stated he has gone to great lengths to keep his cattle off the state section although his entry point is right on the state section and the cattle were thirsty and headed right to the creek for a drink. The cattle were moved off the area the same day. Mr. Ingram stated he also has monitored his cattle every day to keep his cattle off the state section.

Secretary of State Cenarrusa asked Mr. Ingram if, in Mr. Ingram's three-year rotation, the state section was scheduled for grazing this year. Mr. Ingram responded that the state section was scheduled for grazing but after receiving the letter from IDL stating he was to keep his cattle off the state section, he just trailed his cattle through.

Controller Williams asked Mr. Ingram if there was anything else he wanted to tell the Land Board. Mr. Ingram reemphasized how important the state section is for entering and exiting the allotment. This unit is only grazed two out of three years but access to the rest of the allotment is through the state section. If the lease is awarded to IWP Mr. Ingram requested that he have trailing rights through the state section even though the riparian area may be fenced.

Secretary of State Cenarrusa asked how the cattle would be moved if this section is fenced for a mile long. Mr. Ingram responded that if the riparian areas are fenced the cattle could be trailed along the outside of the fence and along the road to access the rest of the allotment. Secretary of State Cenarrusa asked if access could be found through the stream on either end of the parcel. Mr. Ingram said access would be through BLM on the top side, BLM on the bottom side and the Forest Service on the south side.

Superintendent Howard commented that she is pleased Mr. Ingram has taken to heart the letter from IDL and that he has to the best of his ability made every attempt to move his cattle across the state parcel very quickly and is following up by monitoring his cattle. Through his actions Mr. Ingram has demonstrated part of what a good steward of the land would do.

Attorney General Lance stated that as he understands it the recommendation of the department is to grant the lease to IWP under the original terms, conditions and provisions submitted at the time of the bid. The issue of fencing will be heard at a later date.

Secretary of State Cenarrusa asked Mr. Ingram if he would have approached this lease differently at the auction had he known of IWP's intention to fence the riparian area. Mr. Ingram stated he might have bid higher had he known about the fencing.

AUDIENCE WITH THE BOARD: Mr. Gene Bray addressed the board. Mr. Bray stated IWP agrees with the department's recommendation. IWP also agrees that this section should continue to be used as part of Mr. Ingram's rest-rotation management and that full trailing access through this section, including the off years, would be available to Mr. Ingram.

IWP visited the area on May 21, 2000. There are approximately twenty acres of critical habitat. While there has been a significant improvement over the condition of the area in the 70s, IWP feels the area would be better protected and further enhanced by use of a temporary electric fence for trailing or before the cattle migrate to higher elevations. IWP will comply with Department of Lands policy and will seek prior approval before installing such a fence. Information from the department leads IWP to believe that such an application with beneficial intent has seldom, if ever, been refused.

Mr. Bray concluded by stating that IWP respectfully requests the Land Board award IWP this lease after six years of controversy and thus allow IWP to demonstrate the natural resource benefits of careful, cooperative stewardship.

DISCUSSION: Controller Williams commented to Mr. Bray that the position presented today is different from the position presented at the May Land Board meeting. Mr. Bray responded that IWP is encouraged by what they saw when they visited the parcel on June 9, 2000.

Controller Williams asked Mr. Bray for clarification of the acreage total that IWP feels is critical to the allotment. Mr. Bray stated that after visiting the parcel, IWP feels twenty acres out of the 640 acres are critical. IWP does not know the figure exactly because it changes depending on rocky conditions. IWP would put in fiberglass poles so the contour may change a little bit. The twenty-acre figure is less than five per cent of the allotment and the rest of the forage on the allotment would be available for Mr. Ingram's cattle to use two out of three years.

To summarize, Controller Williams stated:

- IWP accepts the department's recommendation
- IWP accepts the rest-rotation management
- IWP agrees with going to the department regarding any fences being put up and doing that by mutual agreement
- IWP agrees that Mr. Ingram would have trailing access similar to what has occurred this year.

Controller Williams asked Mr. Bray if that was a good summary. Mr. Bray responded yes. Mr. Bray stated IWP never had any intention of interfering with Mr. Ingram's trailing of his cattle.

Secretary of State Cenarrusa commented he would vote against this motion. Regarding the road and the fence being placed there, Mr. Ingram indicated he would have bid more had he known that it was going to be changed. Secretary of State Cenarrusa does not agree with the department recommendation. He would prefer that the recommendation wording of "... construction of fences or other improvements will not be allowed without prior approval of the department" be changed to "... construction of fences or other improvements will not be allowed without prior approval of the board."

Attorney General Lance commented that he has seen some willingness from IWP to cooperate that he has not seen in the past and that willingness to cooperate is encouraging. Also Attorney General Lance stated he is not voting on the fencing issue at this meeting. He reserves the right that the board has in supervising the Department of Lands to take up that issue with Mr. Ingram or with IWP at some later date. Attorney General Lance stated he is discharging what he believes is his responsibility by making a decision on this lease.

Superintendent Howard commented she sees everyone going the extra mile to see how they can work together. Mr. Ingram has certainly demonstrated his best efforts to try to abide by the concerns that have been expressed and IWP is trying to work cooperatively in a way that does not deny the grazing access to the lands. Ultimately we want that relationship to continue in a cordial manner so that neither party will feel somewhat put upon by the other party during the ensuing years. The hope is that spirit will be able to continue.

Acting Governor Otter commented he also is very impressed by the apparent cooperation of Mr. Ingram and the IWP. While he is excited and enthusiastic about that spirit of cooperation continuing, he is still concerned about the unresolved issues, particularly the fence. The issue of the fence would dramatically change his feeling in the future about the lease. If the fence is a substantial condition of the lease and of the bid on the lease, and it appears this fence would be substantial, Acting Governor Otter said his vote would be to oppose the lease as it stands now.

Acting Governor Otter commented that if he had the chance in the future to vote on a motion which included not only the Secretary of State's objection but also the total ingredients of what makes up this lease, he would be very much in favor of granting the lease and would do all that he could to encourage this kind of cooperation.

BOARD ACTION: A motion was made by Attorney General Lance to accept the department's recommendation. Controller Williams seconded the motion. The motion carried on a vote of 3-2 with Attorney General Lance, Controller Williams and Superintendent Howard voting aye; Secretary of State Cenarrusa and Acting Governor Otter voted nay.

10. Request for Final Approval Request for Proposal (RFP), Sage Junction – Presented by Jude Gary, Commercial Leasing Specialist – approved

DEPARTMENT RECOMMENDATION: The department recommends approval of the RFP and draft lease for distribution locally and nationally.

DISCUSSION: Attorney General Lance asked how the advertising would be done. Mr. Gary stated the proposal would be advertised in local papers and trade magazines. Additionally, Mr. Gary will personally contact local distributors and major oil companies in Idaho to present the proposal to them.

Acting Governor Otter commented he would encourage Mr. Gary to ask Jefferson County and some of the adjoining counties to participate heavily not only in the public hearing but also in the information provided at the site.

BOARD ACTION: A motion was made by Controller Williams to authorize the formal RFP. Attorney General Lance seconded the motion. The motion carried on a vote of 5-0.

11. Request for Conceptual Approval to Initiate a Land Exchange Involving the US Bureau of Reclamation, Bureau of Land Management and the State – Presented by Dan Spanfeller, Real Estate Specialist – deferred one month

DEPARTMENT RECOMMENDATION: This exchange would relieve the Idaho Department of Lands from the administrative difficulties found in the managing of the lands at Lake Lowell, Hubbard Reservoir and American Falls Reservoir.

The revenue produced on the land that the State proposes to acquire will be significantly higher than the land being exchanged. The federal land being acquired will produce an estimated \$9,580.00 per year to the endowment; the State land being disposed of is producing only \$4,012.50 (at best) per year to the endowment.

Staff recommends that the Land Board give conceptual approval for the exchange. The appraisal process will begin and final negotiations will be made following the appraisal. Staff will return once this process is completed and will seek final approval from the board.

BOARD ACTION: This agenda item was deferred for one month.

12. Request for Final Approval of the Proposed Exchange between the State of Idaho and Land Exchange, Inc. – Presented by Perry Whittaker, Chief, Bureau of Real Estate and Kent Nelson, Deputy Attorney General – approved

DEPARTMENT RECOMMENDATION: Department staff requests board approval to complete this exchange with Land Exchange, Inc. As part of the exchange, the department requests permission to acquire the property subject to a ten (10) year zero service master lease with Home Federal.

DISCUSSION: Attorney General Lance commended Mr. Whittaker and Mr. Nelson for their hard work on this exchange.

BOARD ACTION: A motion was made by Attorney General Lance to accept the department's recommendation. Secretary of State Cenarrusa seconded the motion. The motion carried on a vote of 5-0.

13. Request for Conceptual Approval of a Land Exchange between the Department of Lands and the Department of Parks and Recreation Relating to Lands Near Ponderosa State Park at McCall – Presented by Perry Whittaker, Chief, Bureau of Real Estate – approved

DEPARTMENT RECOMMENDATION: The department recommends approval for IDL to enter into an exchange agreement with Idaho Department of Parks and Recreation (IDPR) to effect the exchange

at Ponderosa State Park involving the Nazarene Church Camp, Marie Whitesel and Lakeview Village endowment properties.

The department further recommends approval for IDL to identify and acquire timberland parcels suitable for exchange to effect a portion of the exchange at Ponderosa State Park, focussing initially on the Nazarene Church Camp parcel. Upon completion of inspection and valuation of each identified timberland parcel, IDPR will negotiate acquisition of the timberland parcel for exchange to IDL pursuant to Idaho Code Section 58-507.

DISCUSSION: Attorney General Lance commented that timing is everything on this exchange. Complex issues may come up if this exchange is delayed.

Controller Williams commented that other exchanges are being considered. There are some appraisal problems but those problems should not totally foreclose the exchanges, depending upon further negotiations. Obviously there is a need to try to fulfill commitments and maybe there are pieces that can be put together.

Controller Williams stated one question he will ask on timber sales from now on is what is the regeneration ability of the land to grow new timber. That is a factor that needs to be put into the analysis. Not only what timber is there now but also what is the timber growing ability of the dirt for future harvests.

Superintendent Howard commented that the Marie Whitesel property seems out of sync with the other properties. She asked why the Whitesel property was included. Mr. Whittaker responded that the Whitesel property is an in-holding inside the Ponderosa State Park and as such Parks and Recreation is very interested in acquiring the property. The Whitesel property has been identified for several years as a desirable parcel for inclusion into the Ponderosa State Park.

BOARD ACTION: A motion was made by Attorney General Lance to accept the department's recommendation. Controller Williams seconded the motion. The motion carried on a vote of 5-0.

- **INFORMATION AGENDA**

Director Hamilton briefed the Land Board on the Information Agenda items. No Land Board action is required on the Information Agenda.

14. Timber Sale Activity Reports

as of May 31, 2000

174 active contracts
346 MBF under contract
estimated residual value of \$110,000,000

as of June 30, 2000

177 active contracts
329.5 MBF
estimated residual value of \$105,000,000

Stumpage prices have varied.

15. Fiscal 2000 Land Exchange Activity and Land Exchange Status

This agenda item is a summary of land exchange activity through June 30, 2000. The summary lists the exchanges the department has gone through from 1980 through 2000 and then it also contains a summary of 2000 to show where the department stands now and where it is headed.

PRIEST LAKE COTTAGE SITE APPEALS

Secretary of State Cenarrusa asked Director Hamilton about the status of the Priest Lake cottage site appeals. Director Hamilton responded that he expects to receive the report of the three-person panel shortly. The panel struggled. They looked at the appraisals offered by all of the lessees and they found those appraisals to be inadequate in the sense that most of the appraisers did not follow the appraisal instructions very well. The appraisals were sent back to those lessees and asked that they have their appraisers review them. After resubmission of the appraisals, the panel was still concerned about the quality of the appraisals. The panel will be making a recommendation to Director Hamilton. Then about a week later that same panel will provide Director Hamilton with a report along with additional advice on how to proceed. The goal is that the fifteen would then allow the board or the department to take a look at perhaps setting the values for all of them at the same time. It is a huge job.

- ❑ A motion was made by Attorney General Lance to resolve into Executive Session at 11:25 a.m. Secretary of State Cenarrusa seconded the motion. The motion carried on a vote of 5-0.

• EXECUTIVE SESSION

➤ **To Consider Acquiring an Interest in Real Property Which is Not Owned by a Public Agency, Idaho Code § 67-2345 (1) (c)**

➤ **To Consider Potential Litigation**

- ❑ A motion was made by Secretary of State Cenarrusa to dissolve back into Regular Session at 11:45 a.m. Attorney General Lance seconded the motion. The motion carried on a vote of 5-0.

Attorney General Lance left the meeting at 11:45 a.m.

- ❑ A motion was made by State Controller Williams that the board approve the acquisition through exchange of the various identified properties as discussed in Executive Session. Secretary of State Cenarrusa seconded the motion. The motion carried on a vote of 4-0 with Attorney General Lance being absent for this vote.
- ❑ A motion was made by Secretary of State Cenarrusa that the board approve the filing of a petition with the court for certiorari on the Coeur d'Alene Lake case. Superintendent Howard seconded the motion. The motion carried on a vote of 4-0 with Attorney General Lance being absent for this vote.

There being no further business before the board, a motion was made by Controller Williams to adjourn the meeting. Secretary of State Cenarrusa seconded the motion. The motion carried on a vote of 4-0 with Attorney General Lance being absent for this vote. The meeting was thereby adjourned at 11:50 a.m.

IDAHO STATE BOARD OF LAND COMMISSIONERS

/s/

President, State Board of Land Commissioners and
Governor of the State of Idaho

/s/

Pete T. Cenarrusa
Secretary of State

/s/

Stanley F. Hamilton
Director

The above-listed final minutes were approved by the State Board of Land Commissioners at the October 10, 2000 regular Land Board meeting.